

REMARKS:

In the foregoing amendments, claims 1, 6-9, 13 and 15 were amended to more closely correspond to define the structure of the pad shown in FIGS. 33A and 33B, and claims 10-12 and 14 were canceled. Claims 2 and 4 were previously canceled. Accordingly, claims 1, 3, 5-9, 13 and 15 remain in the application for consideration by the examiner.

The foregoing amendments are being made to clarify what was already implied in applicant's claims and these amendments are not narrowing amendments and are not being made for reasons substantially related to patentability presented. Reconsideration and allowance of claims 1, 3, 5-9, 13 and 15 are respectfully requested for at least the following reasons.

Applicant desires to express thanks to Examiner Avery for the courtesies extended the undersigned in a telephone interview on June 12, 2007. During the interview, proposed claim amendments were discussed, but no agreement was reached.

The Official action set forth four prior art rejections of the claims. Claims 1, 3, 6-9, 13 and 14 were rejected under 35 U.S.C. §102(e) as being anticipated by French No. 2,774,302 of Rigal (Rigal '302). This rejection is set forth on pages 2 and 3 of the Official action. Claims 1, 5-8, 10-13 and 15 were rejected under 35 U.S.C. §102(b) as being unpatentable over U. S. patent No. 5,142,798 of Kaufman *et al.* (Kaufman). This rejection appears on pages 3 and 4 of the Official action. Claims 5 and 10-12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rigal '302. This rejection is set forth on pages 4 and 5 of the Official action. On page 5 of the Official action, claim 15 was rejected under 35 U.S.C. §103(a) as being unpatentable over Rigal '302 in view of U. S. patent No. 6,076,848 of Rigal *et al.* (Rigal '848). Applicant respectfully submits that the teachings of Rigal '302, Kaufman and/or Rigal '848 do

not disclose or suggest the inventions defined in claims 1, 3, 5-9, 13 and 15 within the meaning of 35 U.S.C. §102 or 35 U.S.C. §103 for at least the following reasons.

The teachings of Kaufman were newly cited against applicant's claims. The Official action compared the structure shown in FIG. 7 of Kaufman to the presently claimed inventions. However, the drawings in Kaufman do not describe a binding of a snowboard, but rather, describe a combination of a flexible walking boot and a boot brace, as discussed in the abstract of Kaufman. The combined flexible walking boot and boot brace proposed by Kaufman allegedly has a rigidity similar to that of a normal rigid ski boot. The combined flexible walking boot and boot brace, as proposed by Kaufman, must be secured to a baseplate of a ski by a separate binding. For these reasons, applicant respectfully submits that the teachings of Kaufman do not relate to the binding of the snowboard, as required in the present claims. Furthermore, applicant respectfully submits that the structures proposed by Kaufman could not somehow be combined with a snowboard binding, so as to arrive at the presently claimed invention. For example, it appears that the structure shown in FIG. 7 of Kaufman could not be combined with a binding as proposed by Rigal '302, Rigal '848 or other similar bindings, because the structures identified by strap 130 of Kaufman would occupy the same space and/or interfere with the straps proposed by Rigal '302 or Rigal '848 for securing a boot to a snowboard. Therefore, such a combination is not feasible and cannot be suggested by the teachings of Rigal '302, Kaufman and/or Rigal '848.

In addition, the teachings of Kaufman do not contemplate or suggest the structures required in independent claim 1. Namely, while Kaufman proposes a receiving means (120) that is pivotable relating to the sole plate (115), these teachings do not contemplate or suggest a structure where a band fastens the toe end portion at an acute angle, *etc.*, as required in present

claim 1, or a fixing structure connecting a first side of the base plate to a second side of the base plate at an acute angle with respect to a toe end of the boot, *etc.*, as required in present claim 7.

Still further, as shown in FIG. 8 of Kaufman, a flange (114) of a boot (112) is fixed by a lip (122) of the receiving means (120), so that only a boot exclusive for the attachment of Kaufman can be used for the attachment. Accordingly, such teachings of Kaufman cannot contemplate or suggest that *the front portion of the pad is arranged at a distance from the base plate*, as required in present claim 6.

Perhaps, most importantly none of Rigal '302, Kaufman and Rigal '848 contemplates or suggests the structure of the pad defined in independent claims 1, 6 and 7 and shown in FIGS. 33A and 33B of the present application. Claim 1 defines, *inter alia*:

*a pad comprising a lower part with an inner surface contacting a forwardmost surface of the toe end portion of the boot, an upper part with an inner surface contacting an upper surface of the toe end portion of the boot and a convex intermediate part connecting the upper and lower parts, the lower part of the pad being attached to an inner surface of one of the first band and the second band.*

Claim 6 defines, *inter alia*:

*a pad fixed on the third band, the pad including a front portion connecting to a forwardmost portion of a toe end portion of the boot and a top portion connecting to an upper portion of the toe end portion of the boot, the front portion of the pad being arranged at a distance from the base plate and including a vertically extending flat surface, and the top portion including a flat surface extending at an angle from the vertically extending flat surface.*

Claim 7 defines, *inter alia*:

*the pad including a convex-shaped portion connecting the upper and lower ends of pad.*

None of Rigal '302, Kaufman and Rigal '848 contemplates or suggests a *convex intermediate part connecting the upper and lower parts of the pad*, as required in claim 1; *the front portion of the pad* being arranged at a distance from the base plate and *including a vertically extending flat surface*, and *the top portion including a flat surface extending at an angle from the vertically extending flat surface*, as required in claim 6; or *the pad including a convex-shaped portion connecting the upper and lower ends of the pad*, as required in claim 7.

In addition to the above, the teachings of Rigal '302 and Rigal '848 were discussed and distinguish from the presently claimed invention in applicant's response filed on December 8, 2006, which arguments are included herein by reference. Along the lines discussed therein, the teachings of Rigal '302 Rigal '848 do not disclose or suggest, *inter alia*, the pad comprises a lower part or end (or front portion) with an inner surface contacting a forwardmost surface of the toe end portion of the boot or an upper part (or top end or top portion) with an inner surface contacting an upper surface of the toe end portion of the boot, as required in present claims 1, 6 and 7.

During the telephone interview, Examiner Avery commented that perhaps the strap 11 proposed in FIG. 1 of Rigal '302 or the strap 4 proposed in FIG. 1 of Rigal '848 could be somehow slid forward so as to secure to the *forwardmost surface of the toe end portion of the boot*, which is required for the lower part or end (or front portion) of the pad in present claims 1, 6 and 7. However, applicant respectfully submits that such a modification of the device proposed by Rigal '302 or Rigal '848 cannot be obvious to one of ordinary skill in the art,

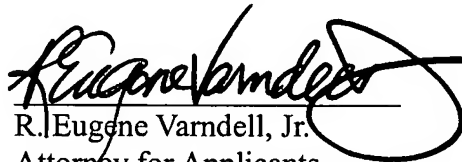
because this would make the device proposed by either Rigal '302 or Rigal '848 unsteady and unsafe. Namely, the strap proposed by Rigal '302 or Rigal '848 that was allegedly arranged to cover the toe of the boot, along the lines as presently claimed, could be easily jarred loose (such as by contact with the snow, ground or otherwise while skiing) resulting in loosening the boot within the binding, thereby making it more difficult to control the ski. In other words, allegedly arranging a strap proposed by Rigal '302 or Rigal '848 to cover the toe end portion of the boot would destroy the functioning (securing) of the bindings described therein and, therefore, destroy the inventions to which these teachings are directed. For such reasons, the presently claimed invention can not be obvious from the teachings of Rigal '302 or Rigal '848.

For at least the foregoing reasons, applicant respectfully submits that the inventions defined in claims 1, 3, 5-9, 13 and 15 are patently distinguishable from the teachings of Rigal '302, Kaufman and/or Rigal '848 within the meanings of 35 U.S.C. §102 and 35 U.S.C. §103(a). Therefore, applicant respectfully requests that the examiner reconsider and withdraw all the rejections set forth in the outstanding Office action. Accordingly, a formal allowance of claims 1, 3, 5-9, 13 and 15 is respectfully requested.

While it is believed that all the claims in this application are in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,  
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